

Attorney Docket: 920214.00005  
Applicants: Polt & Bilsky  
Application No. 10/540,443 Filed: 06/22/2005  
Group Art Unit: 1639  
Reply to Office Action Dated: June 5, 2007  
Response Dated: October 25, 2007  
Examiner: Christopher M. Gross

## REMARKS

In a non-final Office Action dated June 5, 2007, the Examiner objected to the Specification and Claims for failing to comply with the Sequence Listing requirements set forth in 37 C.F.R. §§ 1.821-1.825. In addition, the Examiner raised an election of species, requiring applicants to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicants respond to the Examiner's objection and election of species below. Applicants respectfully request reconsideration of the merits of this application. Accordingly, applicants respectfully request that a timely Notice of Allowance be issued in this case.

### Sequence Listing

In accord with the requirements set forth in 37 C.F.R. § 1.821(d), applicants amend paragraphs [00017]-[00018], Table 2, as well as the claims, to recite the proper SEQ ID NOs. As such, applicants enclose with this submission a TXT version and a PDF version of a Sequence Listing. In view of these amendments and the submission, applicants respectfully request reconsideration of this objection.

### Statement Under 37 C.F.R. § 1.821(f)

The undersigned, an attorney registered to practice before the U.S. Patent and Trademark Office (USPTO) and representing the applicants in the above-identified patent application hereby state and affirm that the content of the TXT version and the content of the PDF version of the Sequence Listing are believed to be the same.

### Disposition of the Claims

Claims 1, 3, 4, 7-10 are amended largely as suggested by the Examiner to structurally describe both the genus and the species of the glycosylated peptide enkephalins. Claims 2, 5, 11 and 13 are cancelled. No new matter is added. Accordingly, an early Notice of Allowance is respectfully solicited.

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### Election of Species

The Examiner requires applicants to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner asserts that the genus includes species which do not share a common core structure, as such they are each separate inventions. For example, message sequences confer specificity to different opioid receptors and the transport sequences do not necessarily share a common sugar moiety.

Specifically, the Examiner requires applicants to select a single specific species of disaccharide glycosylated enkephalin. In fact, applicants must specify as to atom and bond, including message sequence; chirality of each amino acid residue; anomeric configuration of the transport sequence linkage; disaccharide glycosidic linkage, sugar chirality and ring configuration.

Applicants provisionally elect SEQ ID NO:25, where all amino acids except the second amino acid are L-amino acids. The amino acid at the second position is a D-threonine. The sugar is an O-linked disaccharide, specifically  $\beta$ -D-lactose. This species reads on Claims 1, 3-4, 7, and 9.

This election is made with traverse and without prejudice to the eventual filing of a divisional or another continuing application. The restriction is traversed on the grounds that the subject matter of the amended claims are inextricably linked and should be examined together.

To clarify the overall single general inventive concept between the species recited in the application, applicants amend Claim 1 to recite a general structure shared by all species, (L)-Tyr-(D)-x-(L)-Gly-(L)-Phe-(L)-Leu-(L)-Ser-( $\beta$ -disaccharide)CONH<sub>2</sub>, wherein the peptide region of the molecule comprises (L)-Tyr-(D)-x-(L)-Gly-(L)-Phe-(L)-Leu-(L)-Ser, defined as SEQ ID NO: 35, wherein (L)-Ser is linked to the  $\beta$ -disaccharide through an O-linkage, wherein "x" is a D-amino acid, as defined in the specification and wherein the  $\beta$ -disaccharide sugar is selected from the group consisting of  $\beta$ -lactose,  $\beta$ -maltose and  $\beta$ -melibiose. Insofar as all claims are based upon the general formula, this is believed generic to all claims.

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Applicants believe that a proper search for one species would inevitably overlap with a search for all species in the genus. The results for one should bring to light the art relevant to the claims of the other species. Applicants do not believe that a burden exists for searching more than one of the intimately related species within the genus.

Applicants also note that procedurally restriction requirements are optional in all cases (see MPEP § 803). It is submitted that for the convenience of the Patent Office and the applicants, the applicants are best served by considering all of the claims in a single patent application and not several separate patent applications. For these reasons, applicants respectfully request that the restriction requirement be reconsidered and withdrawn.

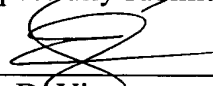
Additional Remarks

Minor typographical errors are corrected in paragraphs [00003] and [00024].

Fees

A petition for a four-month extension of time accompanies this response so that it will be deemed to have been timely filed. No other extension of time is believed due, but should any additional extension be due, in this or any subsequent response, please consider this to be a petition for the appropriate extension, and a request to charge the extension fee to Deposit Account No. 17-0055. No additional fees are believed due; however, if any fees are due, in this or any subsequent response, please charge Deposit Account 17-0055.

Respectfully submitted,

  
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